THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8634 of 2007

Dated:30.04.2007

Between:

Kolukuluru Raja Gopal and others.

…Petitioners

and

The District Collector and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8634 of 2007

ORDER:

The three petitioners are residents of Bangaru Naidu Kandriga @ Shamsher Bahadur Pet Village of Pichatur Mandal in Chittoor District. All the petitioners are closely related. They filed the instant Writ Petition challenging the action of the fourth respondent in constructing the Temple allegedly in the middle of the public street of Gram Panchayat. They seek a direction to respondents 1 to 3 to prevent the fourth respondent from constructing the Temple.

The case of the petitioners is that they have their ancestral house on the road running perpendicular to Vengathur to Chennai Road of 30' wide. There is small Temple existing on the street from time immemorial in a place admeasuring 10' X 10'. As the Temple was dilapidated, the Villagers decided to build the Temple with the same dimensions and the owners of houses on the other side of the road objected for the same. As the first petitioner is resident of Chennai, petitioners 2 and 3 on their own could not effectively oppose the constructions of the Temple. Taking advantage of the same, the fourth respondent started constructing big Temple on the road. Therefore, the present Writ Petition is filed.

The matter was heard on 24.04.2007. Learned Assistant Government Pleader for Revenue (General-A) was directed to get instructions. After obtaining written instructions from the Tahasildar, Pichatur, learned Assistant Government Pleader submits that there was an existing Temple in the Village site in Survey No.132/4 near Rachabanda, that villagers started constructing new Temple when the

first petitioner opposed. He also gave a representation on 14.02.2007 to the District Collector, and as directed by the District Collector, Tahasildar conducted survey and submitted a report on 20.03.2007 to the effect that the petitioners' right of pathway is no way effected and that the first petitioner is attacking the villagers creating law and order problem. He also states that an order under Section 145 of the Code of Criminal Procedure, 1973, was promulgated in proceedings No.A/15/07, dated 20.02.2007. The villagers then approached the District Collector for vacating the prohibitory orders to enable them for constructing the Temple, and after considering the request, the Collector issued instructions not to promulgate the prohibitory orders to enable the villagers to proceed with the construction. Learned Assistant Government Pleader submits that all the members of 17 families in the Village belong to same community and due to internal problems one group is opposing the construction of the Temple. He also denied that the Temple is being constructed by the villagers without leaving any space for the petitioners on the road.

After giving anxious consideration to the submissions made by the learned Assistant Government Pleader and the learned Counsel for the petitioner, this Court is convinced that the Writ Petition is not bona fide. When the villagers were constructing the Temple, which was statedly permitted by the District Collector, the remedy of the petitioners is to approach the District Collector. The Writ Petition is misconceived, and the same is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

30.04.2007
vs